

ESTTA Tracking number: **ESTTA498033**

Filing date: **10/03/2012**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

**Notice of Opposition**

Notice is hereby given that the following party opposes registration of the indicated application.

**Opposer Information**

Name	Beats Electronics, LLC
Granted to Date of previous extension	10/03/2012
Address	1601 Cloverfield Blvd., Suite 5000N Santa Monica, CA 90404 UNITED STATES
Attorney information	Michael G. Kelber Neal, Gerber & Eisenberg LLP Two North LaSalle Street Suite 1700 Chicago, IL 60602 UNITED STATES mkelber@ngelaw.com, ljames@ngelaw.com, knye@ngelaw.com, mbenson@ngelaw.com, awhite@ngelaw.com Phone:312-269-8000

**Applicant Information**

Application No	85446560	Publication date	06/05/2012
Opposition Filing Date	10/03/2012	Opposition Period Ends	10/03/2012
Applicant	One Beat Holdings, Inc. 46 West 83rd Street, 3A New York, NY 10024 UNITED STATES		

**Goods/Services Affected by Opposition**

<p>Class 038. All goods and services in the class are opposed, namely: Television broadcasting; Cable television broadcasting; Satellite television broadcasting; Streaming of multimedia material via a computer network; Video on demand transmission services</p>
<p>Class 041. All goods and services in the class are opposed, namely: Entertainment services, namely, an on-line nondownloadable series of programs, webisodes, video clips, segments, and interstitials featuring information about popular culture, entertainment, fashion, culture, music, and topics of general interest; Production and distribution of television programs; Production and distribution of cable television programs; Entertainment services in the nature of television programming; Production of multimedia content for online distribution; Entertainment services, namely, the production and distribution of webisodes, multimedia content, videos, segments, and interstitials; Providing a website featuring information about popular culture, entertainment, culture, and music</p>
<p>Class 045. All goods and services in the class are opposed, namely: Providing a website featuring information about fashion</p>

## Grounds for Opposition

Priority and likelihood of confusion	Trademark Act section 2(d)
Dilution	Trademark Act section 43(c)

## Marks Cited by Opposer as Basis for Opposition

U.S. Registration No.	3862142	Application Date	06/03/2008
Registration Date	10/12/2010	Foreign Priority Date	NONE
Word Mark	BEATS		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 009. First use: First Use: 2008/07/01 First Use In Commerce: 2008/07/01 headphones		

U.S. Registration No.	4035777	Application Date	06/03/2008
Registration Date	10/04/2011	Foreign Priority Date	NONE
Word Mark	BEATS		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 009. First use: First Use: 2010/09/07 First Use In Commerce: 2010/09/07 Audio speakers; loudspeakers		

U.S. Registration No.	3921110	Application Date	06/11/2009
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Registration Date	02/15/2011	Foreign Priority Date	NONE
Word Mark	HEARTBEATS		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 009. First use: First Use: 2009/09/16 First Use In Commerce: 2009/09/16 personal headphones for use with sound transmitting systems; headphones		

U.S. Registration No.	4176105	Application Date	07/21/2009
Registration Date	07/17/2012	Foreign Priority Date	06/17/2009
Word Mark	BEATS BY DR. DRE		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 009. First use: First Use: 2010/10/14 First Use In Commerce: 2010/10/14 media players for automobiles; DVD players for automobiles; CD players for automobiles; digital audio players for automobiles; audio speakers; car audio speakers; loudspeakers; loudspeaker cabinets; horns for loudspeakers; headphones; personal headphones for use with sound transmitting systems; media players for automobiles Class 025. First use: First Use: 2011/11/05 First Use In Commerce: 2011/11/05 T-shirts		

U.S. Registration No.	4177191	Application Date	06/08/2010
Registration Date	07/17/2012	Foreign Priority Date	NONE
Word Mark	BEATS PRO		

Design Mark	<b>BEATS PRO</b>
Description of Mark	NONE
Goods/Services	Class 009. First use: First Use: 2010/10/14 First Use In Commerce: 2010/10/14 Headphones; personal headphones for use with sound transmitting systems

U.S. Registration No.	4173065	Application Date	06/25/2010
Registration Date	07/10/2012	Foreign Priority Date	NONE
Word Mark	JUSTBEATS		
Design Mark	<b>JUSTBEATS</b>		
Description of Mark	NONE		
Goods/Services	Class 009. First use: First Use: 2010/10/14 First Use In Commerce: 2010/10/14 headsets for mobile phones; headphones; personal headphones for use with sound transmitting systems		

U.S. Application No.	77786522	Application Date	07/21/2009
Registration Date	NONE	Foreign Priority Date	06/17/2009
Word Mark	BEATS		

Design Mark	<h1>BEATS</h1>
Description of Mark	NONE
Goods/Services	<p>Class 009. First use: First Use: 2008/07/01 First Use In Commerce: 2008/07/01 (Based on Use in Commerce) headphones; (Based on Intent to Use) audio and video equipment, namely, digital audio players, digital video players, media players, portable media players, DVD players, portable DVD players, CD players, portable CD players, media players for automobiles, DVD players for automobiles, CD players for automobiles, digital audio players, digital video players, portable digital audio players, portable digital video players; digital audio players for automobiles; digital video players for automobiles; MP3 players; MP4 players; protective carrying cases for portable music players; cell phones; personal digital assistants (PDA); smart phones; headsets for mobile phones; audio speakers; car audio speakers; loudspeakers; loudspeaker cabinets; horns for loudspeakers; racks for loudspeakers; electric actuators; stands specially adapted for stereos and audio speakers, namely, floor stands and table tops for loudspeakers; surround sound systems; audio equipment, namely, amplifiers, subwoofers, surround sound systems; pre-amplifiers; amplifiers; sound amplifiers; audio amplifiers; racks for amplifiers; high-fidelity stereo systems comprised of amplifiers, loudspeakers, receivers and tuners; signal processors, namely, signal separating, distributing, generating and converting circuits all for audio signals, video signals or audio-video signals; electro acoustic transducers; audio mixers; electronic audio mixers; sound mixers; sound mixers with integrated amplifiers; acoustic conduits; acoustic couplers; acoustic coupling devices; acoustic membranes; acoustic meters; acoustic separation units; apparatus for wireless transmission of acoustic information; wave reflectors for acoustic speakers, lighting apparatus, and air flow devices; electrical pickups for use with musical instruments; musical juke boxes; musical instrument adaptors; musical instrument amplifiers; musical instrument connectors; metronomes; time clocks being time recording devices; teleprinters; scales; micrometers; signal bells, sound locating instruments, namely, sound alarms, sound level meters; projection screens; automatic switchboards; automatic turnstiles; stereo receivers; stereo tuners; stereo amplifiers; audio equipment components, namely, limiters and compressors, boxes specially adapted for housing audio equipment, software to control and improve audio equipment sound quality; video equipment, namely, video receivers, combination video players and recorders, digital video recorders, distribution amplifiers for video signals; video equipment components, namely, component video cables, electronic scalers for video signals, electronic interconnecters for video signals; microphones; electronic cables, namely, audio and video electric cables and cable connectors; power cables and cable connectors; sound and video recording apparatus; portable telephones and accessories, namely, cases for cellular telephones, decorative charms for cellular telephones, Fitted plastic films known as skins for covering and providing a scratch proof barrier or protection for portable telephones; compact disc players; record players and equipment, namely, needles for record players, electrical phonograph record turntable cartridges, phonographic record cleaning kits comprised primarily of replacement stylus</p>

needles and also including cleaning solution and brushes; stereo players and equipment, namely, stereo tuners, stereo amplifiers, personal stereos; eyewear and sunglasses; computers; laptop computers; components for computers for enhancing their audio and video sound properties; computer software, namely, software for processing digital music files and software for browsing or editing video, images and sound; computer software, namely, software application for locating and identifying local music venues and live musical or dj performances; audio application software for computers; computer accessories, namely, USB sticks, USB hubs, keyboards, computer monitors, computer mouse, and audio speakers for computers; electronic devices, namely, televisions, radios, MP3 players, MP4 players, video players and audio players, all with sound elements; sound systems and sound elements for televisions and radios comprised of surround sound systems, sound systems comprising remote controls, amplifiers, loudspeakers and components therefor, personal headphones for use with sound transmitting systems; audio equipment, namely, media players, portable media players, DVD players, portable DVD players, CD players, portable CD players, media players for automobiles, DVD players for automobiles, CD players for automobiles, digital audio players, portable digital audio players, digital audio players for automobiles; audio speakers for home theater systems; audio speakers for computers; audio recordings featuring music; computer software for processing digital music files; digital photo frames for displaying digital pictures, video clips and music; downloadable music via the Internet and wireless devices; downloadable MP3 or MP4 files, MP3 or MP4 recordings and downloadable pod casts featuring music, audio books and news broadcasts; video recordings featuring music; music-composition software; visual recordings and audio visual recordings featuring music; downloadable visual recordings featuring music and musical based entertainment; downloadable cellular phone ringtones; Apparatus for recording, transmission or reproduction of sound or images

Class 025. First use:

(Based on Intent to Use) Clothing, namely, blouses, dresses, bottoms, coats, foul weather gear, gloves, hosiery, jackets, jeans, lingerie, mittens, neckties, neckwear, nightwear, pajamas, pants, pullovers, rainwear, robes, scarves, shirts, shorts, skirts, skorts, socks, sweatshirts, sweaters, swimwear, T-shirts, track suits, undergarments, vests, polo shirts, sweat pants, jerseys, belts; footwear; headgear, namely, caps, hats, visors, skullcaps, beanies

Class 038. First use:

(Based on Intent to Use) Providing online electronic bulletin boards for transmission of messages among computer users concerning media, music, video, film, book and television; streaming of video content via a global computer network; streaming of audio content via a global computer network

Class 041. First use:

(Based on Intent to Use) Nightclub services; dance club services; provision of live entertainment and recorded entertainment, namely, live musical performances by musical bands and DJs; entertainment services, namely, non-downloadable ringtones, pre-recorded music, video and graphics presented to mobile communications devices via a global computer network and wireless network; music studios, namely, sound recording studios; publishing services in the nature of music publishing; musical entertainment in the nature of live visual and audio performances by musical groups and DJs; exhibitions, namely, exhibitions concerning music; providing online music services, namely, providing non-downloadable prerecorded music via global computer network; entertainment services, namely, providing a web site featuring musical performances, musical videos, related film clips, photographs, and other multimedia entertainment materials, providing on-line reviews of music performances, concerts, music albums and recordings and musical artists, providing non downloadable prerecorded music, information in the field of music, and commentary and articles about music, all on-line via a global computer

	network; providing podcasts in the field of music, providing webcasts in the field of music and other multimedia entertainment materials
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U.S. Application No.	77960477	Application Date	03/16/2010
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Registration Date	NONE	Foreign Priority Date	NONE
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Word Mark	BEATSAUDIO
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Design Mark	
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Description of Mark	NONE
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Goods/Services	<p>Class 009. First use:</p> <p>Audio and video equipment, namely, audio players, video players, media players, portable media players, DVD players, portable DVD players, CD players, portable CD players, media players for automobiles, DVD players for automobiles, CD players for automobiles, digital audio players, digital video players, portable digital audio players, portable digital video players; digital audio players for automobiles; digital video players for automobiles; MP3 players; MP4 players; protective carrying cases for portable music players; cell phones; personal digital assistants (PDA); smart phones; headsets for mobile phones; speakers; car speakers; loudspeakers; loudspeaker cabinets; horns for loudspeakers; racks for loudspeakers; electric actuators; floor stands and table tops for loudspeakers; audio electronic components, namely, surround sound systems; audio equipment, namely, pre-amplifiers; amplifiers; sound amplifiers; audio amplifiers; racks for amplifiers; high-fidelity stereo systems comprising amplifiers, loudspeakers, receivers and tuners; subwoofers; signal separating, distributing, generating and converting circuits all for audio signals, video signals or audio-video signals; electroacoustic transducers; audio mixers; electronic audio mixers; sound mixers; sound mixers with integrated amplifiers; acoustic conduits; acoustic couplers; acoustic coupling devices; acoustic membranes; acoustic meters; acoustic separation units; apparatus for wireless transmission of acoustic information; wave reflectors for acoustic speakers, lighting apparatus, and air flow devices; pickups for use with musical instruments; electronic effects pedals for use with musical instruments; musical juke boxes; musical instrument adaptors; musical instrument amplifiers; musical instrument connectors; metronomes; time clocks being time recording devices; teleprinters; scales; micrometers; signal bells, sound locating instruments, namely, sound alarms, sound level meters; projection screens; automatic switchboards; automatic turnstiles; stereo receivers; stereo tuners; stereo amplifiers; audio equipment components, namely, limiters and compressors, boxes specially adapted for housing audio equipment, software to control and improve audio equipment sound quality; video equipment, namely, video receivers, combination video players and recorders, digital video recorders, distribution amplifiers for video signals; video equipment components, namely, component video cables, electronic scalars for video signals, electronic interconnectors for video signals; microphones; electronic cables, namely, audio and video electric</p>
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	<p>cables and cable connectors; power cables and cable connectors; sound and video recording apparatus; video equipment, namely, video receivers, combination video players and recorders, digital video recorders, distribution amplifiers for video signals; video equipment components, namely, component video cables, electronic scalars for video signals, electronic interconnectors for video signals; microphones; electronic cables, namely, audio and video electric cables and cable connectors; power cables and cable connectors; sound and video recording apparatus; microphones; audio and video electric cables and connectors; power cables and connectors; sound and video recording apparatus; portable telephones and accessories, namely, cases for cellular telephones, decorative charms for cellular telephones, fitted plastic films known as skins for covering and providing a scratch proof barrier or protection for portable telephones; compact disc players; record players and equipment, namely, needles for record players, electrical phonograph record turntable cartridges, phonographic record cleaning kits comprised primarily of replacement stylus needles, cleaning solution and brushes; stereo players and equipment, namely, stereo tuners, stereo amplifiers; stereo players and equipment, namely, stereo tuners, stereo amplifiers, personal stereos; eyewear and sunglasses; headphones; laptop computers; computer hardware; computer software; computer accessories, namely, USB sticks, USB hubs, keyboards, computer monitors, computer mouse, and audio speakers for computers; electronic devices, namely, televisions, radios, MP3 players, MP4 players, video players and audio players, all with sound elements; audio electronic components, namely, sound systems and sound elements for televisions and radios comprised of surround sound systems, sound systems comprising remote controls, amplifiers, loudspeakers and components therefor, personal headphones for use with sound transmitting systems; audio equipment, namely, media players, portable media players, DVD players, portable DVD players, CD players, portable CD players, media players for automobiles, DVD players for automobiles, CD players for automobiles, digital audio players, portable digital audio players, digital audio players for automobiles; audio speakers for home theater systems; audio speakers for computers; audio recordings featuring music; computer software for processing digital music files; digital photo frames for displaying digital pictures, video clips and music; downloadable music via the Internet and wireless devices; downloadable MP3 or MP4 files, MP3 or MP4 recordings and downloadable pod casts featuring music, audio books and news broadcasts; video recordings featuring music; music-composition software; visual recordings and audio visual recordings featuring music; downloadable visual recordings featuring music and musical based entertainment; downloadable cellular phone ringtones; apparatus for recording, transmission or reproduction of sound or images</p> <p>Class 038. First use:  Providing online bulletin boards in the fields of media, music, video, film, book and television for the transmission of messages among users; streaming of video content via a global computer network; streaming of audio content via a global computer network</p>
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U.S. Application No.	77837774	Application Date	09/29/2009
Registration Date	NONE	Foreign Priority Date	NONE
Word Mark	CLUB BEATS		

Design Mark	<h1 style="text-align: center;">CLUB BEATS</h1>
Description of Mark	NONE
Goods/Services	<p>Class 009. First use:</p> <p>Audio and video equipment, namely, media players, DVD players, CD players, media players for automobiles, DVD players for automobiles, CD players for automobiles, audio speakers; car audio speakers; loudspeakers; racks for loudspeakers; stands specially adapted for stereos and audio speakers, namely, floor stands and table tops for loudspeakers; surround sound systems; amplifiers, subwoofers; pre-amplifiers; amplifiers; sound amplifiers; audio amplifiers; racks for amplifiers; high-fidelity stereo systems comprised of amplifiers, loudspeakers, receivers and tuners; signal processors, namely, signal separating, distributing, generating and converting circuits all for audio signals, video signals or audio-video signals; electro acoustic transducers; audio mixers; electronic audio mixers; sound mixers; sound mixers with integrated amplifiers; acoustic conduits; acoustic couplers; acoustic coupling devices; acoustic membranes; acoustic meters; acoustic separation units; apparatus for wireless transmission of acoustic information; electrical pickups for use with musical instruments; musical juke boxes; musical instrument adaptors; musical instrument amplifiers; musical instrument connectors; metronomes; time clocks being time recording devices; projection screens; automatic switchboards; automatic turnstiles; stereo receivers; stereo tuners; stereo amplifiers; record players and equipment, namely, needles for record players, electrical phonograph record turntable cartridges, phonographic record cleaning kits comprised primarily of replacement stylus needles and also including cleaning solution and brushes; stereo players and equipment, namely, stereo tuners, stereo amplifiers; audio and video components, namely, limiters and compressors, boxes specially adapted for housing audio equipment, software to control and improve audio equipment sound quality; video equipment, namely, video receivers, combination video players and recorders, digital video recorders, distribution amplifiers for video signals. video equipment components, namely, component video cables, electronic scalars for video signals, electronic interconnecters for video signals; microphones; electronic cables, namely, audio and video electric cables and cable connectors; power cables and cable connectors; sound and video recording apparatus; home theater equipment and components, namely, televisions, sound systems and sound elements for televisions and radios comprised of surround sound systems, sound systems comprising remote controls, amplifiers, loudspeakers and components therefor; audio speakers for home theater systems; cellular phones, portable electronic devices and related accessories, namely, portable media players, portable DVD players, portable CD players, portable digital audio players, portable digital video players; portable MP3 players; portable MP4 players; protective carrying cases for portable music players; cell phones; personal digital assistants (PDA); smart phones; headsets for mobile phones; portable telephones and accessories, namely, cases for cellular telephones, decorative charms for cellular telephones, fitted plastic films known as skins for covering and providing a scratch proof barrier or protection for portable telephones; compact disc players; personal</p>

	<p>stereos; televisions, radios, MP3 players, MP4 players, video players and audio players, all with sound elements; personal headphones for use with sound transmitting systems; personal computers, digital equipment, namely, digital audio players, digital video players, digital audio players for automobiles; digital video players for automobiles; computer hardware, computer peripherals, namely, USB sticks, USB hubs, keyboards, computer monitors, computer mouse, audio speakers for computers, computer software and downloadable computer software for use in recording, organizing, transmitting, manipulating, reviewing text, data, audio files and video files, music mixing software for use on cellphones and computers</p> <p>Class 025. First use: Clothing, namely, blouses, dresses, bottoms, coats, foul weather gear, gloves, hosiery, jackets, jeans, lingerie, mittens, neckties, neckwear, nightwear, pajamas, pants, pullovers, rainwear, robes, scarves, shirts, shorts, skirts, skorts, socks, sweatshirts, sweaters, swimwear, T-shirts, track suits, undergarments, vests, polo shirts, sweat pants, jerseys, belts; footwear; headgear, namely, caps, hats, visors, skullcaps, beanies</p> <p>Class 035. First use: Retail store services and online retail store services in the field of consumer electronics, clothing, footwear and headgear</p> <p>Class 038. First use: Providing online bulletin boards in the fields of media, music, video, film, book and television for the transmission of messages among users; streaming of video content via a global computer network; streaming of audio content via a global computer network</p> <p>Class 041. First use: Provision of live entertainment, namely, live musical performances by musical bands and DJs; providing non-downloadable pre-recorded entertainment, namely, live musical performances by musical bands and DJs; live musical performances by musical bands and DJs; entertainment services, namely, non-downloadable ringtones, pre-recorded music, video and graphics to mobile communications devices via a global computer network and wireless network; music studios, including sound recording studios; publishing services in the nature of music publishing; musical entertainment in the nature of live visual and audio performances by musical groups and DJs; conducting entertainment exhibitions concerning music; providing online music services, namely, providing non-downloadable pre-recorded music via global computer network; entertainment services, namely, providing a website featuring musical performances, musical videos, related film clips, photographs, and other multimedia materials in the fields of music and entertainment, providing online reviews in the fields of music and entertainment, entertainment services, namely, providing pre-recorded music, information in the field of music, and commentary and articles about music, all online via a global computer network, providing pod casts in the field of music, providing web casts in the field of music and other multimedia materials, featuring music and entertainment</p>
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Attachments	<p>77980257#TMSN.jpeg ( 1 page )( bytes )  77982434#TMSN.jpeg ( 1 page )( bytes )  77980836#TMSN.jpeg ( 1 page )( bytes )  77983185#TMSN.jpeg ( 1 page )( bytes )  85976944#TMSN.jpeg ( 1 page )( bytes )  85976728#TMSN.jpeg ( 1 page )( bytes )  77786522#TMSN.jpeg ( 1 page )( bytes )  77960477#TMSN.jpeg ( 1 page )( bytes )  77837774#TMSN.jpeg ( 1 page )( bytes )  Notice_of_Opposition_re_ONE_BEAT.pdf ( 7 pages )(23150 bytes )</p>
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## Certificate of Service

The undersigned hereby certifies that a copy of this paper has been served upon all parties, at their address record by First Class Mail on this date.

Signature	/Lawrence E. James/
Name	Lawrence E. James
Date	10/03/2012

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

In the Matter of Application No.  
85/446,560 for the mark ONE BEAT  
Published in the *Official Gazette* June 5, 2012

BEATS ELECTRONICS, LLC,	)	
	)	
Opposer,	)	
	)	
v.	)	Opposition No. _____
	)	
ONE BEAT HOLDINGS, INC.,	)	
	)	
Applicant.	)	

**NOTICE OF OPPOSITION**

Beats Electronics, LLC (“Beats”), a limited liability company organized under the laws of Delaware with a place of business at 1601 Cloverfield Blvd., Suite 5000N, Santa Monica, California 90404, believes that it will be damaged by the registration of the mark ONE BEAT in International Classes 38, 41, and 45 as shown in Application Serial No. 85/446,560, filed by Applicant, One Beat Holdings, Inc. (“Applicant”), and therefore hereby opposes the same and requests that registrations to Applicant be refused.

The grounds for Beats’ Opposition are as follows:

1. Applicant seeks to register the mark ONE BEAT in International Class 38 for use in connection with “Television broadcasting; Cable television broadcasting; Satellite television broadcasting; Streaming of multimedia material via a computer network; Video on demand transmission services,” in International Class 41 for use in connection with “Entertainment services, namely, an on-line nondownloadable series of programs, webisodes, video clips, segments, and interstitials featuring information about popular culture, entertainment, fashion,

culture, music, and topics of general interest; Production and distribution of television programs; Production and distribution of cable television programs; Entertainment services in the nature of television programming; Production of multimedia content for online distribution; Entertainment services, namely, the production and distribution of webisodes, multimedia content, videos, segments, and interstitials; Providing a website featuring information about popular culture, entertainment, culture, and music,” and in International Class 45 for use in connection with “Providing a website featuring information about fashion” (hereinafter the “Subject Mark”). The Application filed under 15 U.S.C. § 1051(1)(b), based on Applicant’s alleged intent to use the mark in U.S. commerce.

2. For several years, and long prior to the acts of Applicant alleged herein, Beats has distributed and sold, and continues to distribute and sell numerous music- and audio-related goods and services under and in connection with its family of BEATS marks.

3. Beats has devoted substantial resources, time, and effort to developing, marketing, and distributing its music- and audio-related goods under and in connection with its family of BEATS marks.

4. The family of BEATS marks is now among Beats’ most valuable assets. To protect its rights in its family of marks, Beats has obtained the following federal registrations for BEATS-formative marks for use in connection with various music- and audio-related goods in International Class 9:

<b>MARK</b>	<b>GOODS</b>	<b>REGISTRATION NUMBER</b>	<b>PRIORITY DATE</b>
BEATS	headphones	3,862,142	June 3, 2008
BEATS	Audio speakers; loudspeakers	4,035,777	June 3, 2008
HEARTBEATS	personal headphones for use with sound transmitting systems; headphones	3,921,110	June 11, 2009

BEATS BY DR. DRE	media players for automobiles; DVD players for automobiles; CD players for automobiles; digital audio players for automobiles; audio speakers; car audio speakers; loudspeakers; loudspeaker cabinets; horns for loudspeakers; headphones; personal headphones for use with sound transmitting systems; media players for automobiles	4,176,105	July 21, 2009
BEATS PRO	Headphones; personal headphones for use with sound transmitting systems	4,177,191	June 8, 2010
JUSTBEATS	headsets for mobile phones; headphones; personal headphones for use with sound transmitting systems	4,173,065	June 25, 2010

5. To further protect its family of BEATS marks, Beats has filed numerous applications to register marks comprised of the term BEATS in International Classes 9, 25, 35, 38, and 41 prior to Applicant's filing date of October 13, 2011, including the following:

<b>MARK</b>	<b>REPRESENTATIVE GOODS/SERVICES</b>	<b>APPLICATION SERIAL NO.</b>	<b>FILING DATE</b>
BEATS	Providing online electronic bulletin boards for transmission of messages among computer users concerning media, music, video, film, book and television; streaming of video content via a global computer network; streaming of audio content	77/786,522	July 21, 2009

	<p>via a global computer network</p> <p>Entertainment services, namely, providing a web site featuring musical performances, musical videos, related film clips, photographs, and other multimedia entertainment materials, providing on-line reviews of music performances, concerts, music albums and recordings and musical artists, providing non downloadable prerecorded music, information in the field of music, and commentary and articles about music, all on-line via a global computer network; providing podcasts in the field of music, providing webcasts in the field of music and other multimedia entertainment materials</p>		
BEATS AUDIO	<p>Providing online bulletin boards in the fields of media, music, video, film, book and television for the transmission of messages among users; streaming of video content via a global computer network; streaming of audio content via a global computer network</p>	77/960,477	March 16, 2010
CLUB BEATS	<p>Providing online bulletin boards in the fields of media, music, video, film, book and television for the transmission of messages among users; streaming of video content via a global computer network;</p>	77/837,774	September 29, 2009

	<p>streaming of audio content via a global computer network</p> <p>Entertainment services, namely, providing a website featuring musical performances, musical videos, related film clips, photographs, and other multimedia materials in the fields of music and entertainment, providing online reviews in the fields of music and entertainment, entertainment services, namely, providing pre-recorded music, information in the field of music, and commentary and articles about music, all online via a global computer network, providing pod casts in the field of music, providing web casts in the field of music and other multimedia materials, featuring music and entertainment</p>		
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6. Consumers, upon seeing the Subject Mark used in connection with Applicant's services, are likely to mistakenly believe that such marks, and the services provided in connection with them, originated or are connected with, sponsored by, associated with, or licensed or approved by Beats. Thus, the registration and use by Applicant of the Subject Mark in connection with the recited services in International Classes 38, 41, and 45 is likely to cause confusion, mistake, or deception in violation of 15 U.S.C. § 1052(d).

6. If registration is issued to Applicant for the Subject Mark, the confusion with Beats' family of marks comprised of the term BEATS and each of them would result in damage and injury to Opposer and to the public.

7. Additionally, issuance of registrations to Applicant for the Subject Mark would also diminish the distinctive quality of the Beats' family of marks comprised of the term BEATS and each of them and would blur and otherwise impair the distinctiveness of these marks, in violation of 15 U.S.C. § 1125(c). In addition, should the quality of Applicant's services be lacking, Applicant's use of the Subject Mark may also tarnish the good image of Beats' famous BEATS family of marks and each of them, and would thereby cause harm to Beats' reputation in violation of 15 U.S.C. §1125(c).

WHEREFORE, Beats Electronics, LLC requests that the registration sought by Applicant be refused and that this Notice of Opposition be sustained.

Beats authorizes the T.T.A.B. to charge the fees for opposition in three classes and any additional fees related to this matter to the deposit account of Neal, Gerber & Eisenberg, LLP.

Respectfully submitted,

Dated: October 3, 2012

By: /Lawrence E. James/  
One of the Attorneys for  
BEATS ELECTRONICS, LLC  
Michael G. Kelber  
Lawrence E. James  
Katherine Dennis Nye  
NEAL, GERBER & EISENBERG LLP  
2 North LaSalle Street, Suite 1700  
Chicago, Illinois 60602  
Telephone: 312.269.8000

**CERTIFICATE OF TRANSMISSION**

I hereby certify that the foregoing *Notice of Opposition* is being electronically transmitted via the Electronic System for Trademark Trials and Appeals (“ESTTA”) at <http://estta.uspto.gov/> on the date noted below:

Date: October 3, 2012

/Katherine Dennis Nye/  
Katherine Dennis Nye

**CERTIFICATE OF SERVICE**

I, Katherine Dennis Nye, state that I served a copy of the foregoing *Notice of Opposition*, via first class U.S. mail, postage pre-paid, upon Applicant’s counsel of record:

TED SABETY  
HAND BALDACHIN & AMBURGEY LLP  
8 W 40TH ST FL 12  
NEW YORK, NEW YORK 10018-2307

in accordance with Trademark Rule §§ 2.201 and 2.119 on October 3, 2012.

/Katherine Dennis Nye/  
Katherine Dennis Nye

NGEDOCs: 2018930.1